

COUNCIL OF THE CITY OF PHILADELPHIA
COMMITTEE ON PUBLIC SAFETY

Room 400, City Hall
Philadelphia, Pennsylvania
Wednesday, December 2, 2015
3:55 p.m.

PRESENT:

COUNCILMAN CURTIS JONES, JR., CHAIR
COUNCILWOMAN JANNIE BLACKWELL
COUNCILMAN WILLIAM K. GREENLEE
COUNCILMAN BOBBY HENON
COUNCILMAN MARK SQUILLA

BILL 150815 - An ordinance amending Chapter 9-3500 of The Philadelphia Code, entitled "Fair Criminal Records Screening Standards," by amending certain definitions and adding certain additional requirements with respect to screening job applicants and license applicants for criminal history...

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2 COUNCILMAN JONES: Good
3 afternoon, everyone. This is the
4 Committee on Public Safety for the City
5 of Philadelphia City Council. We are
6 opening our public hearing. With me is
7 Councilwoman Jannie Blackwell.

8 Will the Clerk please read the
9 title of the bill.

10 THE CLERK: Bill No. 150815, an
11 ordinance amending Chapter 9-3500 of The
12 Philadelphia Code, entitled "Fair
13 Criminal Records Screening Standards," by
14 amending certain definitions and adding
15 certain additional requirements with
16 respect to screening job applicants and
17 license applicants for criminal history;
18 all under certain terms and conditions.

19 COUNCILMAN JONES: Thank you.

20 By way of background, as Chair
21 of Public Safety, I did not envision when
22 I ran for office that this would be where
23 I made my public policy bones. I thought
24 I would be at ribbon cuttings and
25 economic development and opening new

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2 stores and things like that. But when
3 you have a plan and you give it to God,
4 God laughs. And I had the opportunity
5 and pleasure of working under a former
6 Councilwoman who was chair of this, Donna
7 Reed Miller, who cared greatly, cared
8 deeply about the legislation that we're
9 going to talk about today, which is Ban
10 the Box.

11 In that tutorial, in that
12 tutelage, I learned a great many things
13 about this issue. When she retired, I
14 chose to ask for and receive chairmanship
15 of this Committee, mostly because of the
16 work that was done on Ban the Box.
17 Because as you start to research the
18 issue, as you start to understand the
19 deep impacts of the criminal justice
20 system in general but returning citizens
21 in particular, you understand that you
22 cannot turn away.

23 So this legislation, in my
24 opinion and members of the Committee, is
25 a very important piece of legislation for

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2 the future of our city.

3 About a month ago I had an
4 opportunity to go to two events on the
5 same day. The first event was my college
6 homecoming, and I got together with a
7 bunch of successful people who had made
8 some decisions that were the correct
9 decisions and had made some decisions,
10 some of them they regretted but got
11 through it and became productive members
12 of society.

13 The other event that I had
14 gotten to earlier was the Lifers
15 Association at Graterford. These
16 gentlemen, who wanted to be fathers and
17 productive members of society, had made
18 some different choices and made some
19 choices that they regret. There are
20 about 5,000 people at that institution,
21 and many of them come home every day.
22 Many of them have learned the errors of
23 their ways, many of them with the
24 expectation of starting a life to become
25 a head of a family and to be productive

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2 members of society, yet are haunted by
3 the stigma of their offense, having paid
4 their debt to society.

5 So I was reminded of the movie
6 Les Miserables. And many of you who are
7 literature experts remember the guy who
8 stole the bread and spent the rest of his
9 life running from that mistake. He had
10 become a productive member of society,
11 become an entrepreneur, he had become a
12 family man, but yet that one mistake in a
13 part of his life haunted him all his
14 life. And if you multiply that by the
15 number of citizens returning, we have to
16 do something. We cannot turn a blind
17 eye. We have to consider as many
18 opportunities for people to get it right,
19 to find their way back to the path.

20 And I want you to know, in the
21 back story, this is not an easy decision
22 that we make. We have to consider all
23 sides, and that's the purpose of these
24 hearings today, but with an eye towards
25 making the best public policy decisions

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2 that we can.

3 Also joining me is Councilman
4 Greenlee, who is here. And I wanted to
5 know if either of you would like to make
6 a statement. If not, can the Clerk
7 please call up the first panel to
8 testify.

9 THE CLERK: Rue Landau, Brendan
10 Lynch.

11 (Witnesses approached witness
12 table.)

13 COUNCILMAN JONES: Thank you
14 very much. Good afternoon. And let me
15 in advance thank you all for the ten
16 months, almost a year of work that you
17 guys have done putting forth this issue,
18 researching it, and working with those
19 who may not have the same opinion to come
20 up with reasonable compromises to this
21 legislation. So thank you for your work
22 in advance.

23 Could you state your name for
24 the record and begin your testimony.

25 MS. LANDAU: Sure. Thank you,

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2 Chairperson Jones and members of the
3 Public Safety Committee. I'm Rue Landau,
4 Executive Director of the Philadelphia
5 Commission on Human Relations, and I'm
6 here with my Deputy Director, Pamela
7 Gwaltney.

8 The Commission is the City
9 agency that administers and enforces the
10 Fair Practices Ordinance, the law that
11 prohibits discrimination in housing,
12 employment, public accommodations, and
13 the delivery of City services. We also
14 enforce the Fair Criminal Record
15 Screening Standards Act, the Ban the Box
16 law, found at Chapter 9-3500 of The
17 Philadelphia Code.

18 Over the past year, our agency
19 joined a working group of stakeholders
20 convened by Chairperson Jones to review
21 and assess the effectiveness of the
22 City's Ban the Box law. After our
23 review, we determined that it is
24 imperative to make modifications to the
25 law in order to effectively protect the

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2 civil rights of the City's ex-offenders
3 and to provide greater guidance for
4 employers to truly engage in fair-chance
5 hiring. That is what brings me here
6 today.

7 Protecting the rights of our
8 residents and visitors with effective
9 legislation is not new to this body.
10 Philadelphia has a long history of being
11 at the forefront of civil rights
12 initiatives that have been revised and
13 amended many times to reflect the
14 changing circumstances and reality of our
15 times. To honor that history and to
16 remedy current-day injustices, we must
17 strengthen our Ban the Box law.

18 As a refresher, in 2011, this
19 body passed and the Mayor signed the Fair
20 Criminal Record Screening Standards Act,
21 otherwise known as Ban the Box. The
22 purpose of the law was to eliminate
23 barriers to employment for the formerly
24 incarcerated so that they could get
25 re-established in their communities and

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2 become productive members of society.
3 According to the National Employment Law
4 Project, 70 million adults have criminal
5 records. That's one in three Americans.
6 And each year, over 650,000 people are
7 released from prison in the U.S. The
8 data shows that without any support or
9 assistance, as many as two-thirds of
10 those released will be rearrested within
11 three years. Consistent gainful
12 employment is a proven factor in
13 preventing recidivism. Having a job
14 provides a person with necessary income
15 as well as self-respect, dignity, and
16 hope. Studies across the country, from
17 the Urban Institute to the Manhattan
18 Institute, have shown that ex-offenders,
19 particularly non-violent offenders, who
20 are gainfully employed soon after
21 incarceration were much less likely to
22 commit another crime. But research also
23 has shown that a criminal record reduces
24 the likelihood of a job callback or offer
25 by nearly 50 percent of people with

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2 records, an effect even more pronounced
3 for African American men than for white
4 men.

5 Ban the Box was designed to
6 give people a fair chance at employment
7 by prohibiting questions about an
8 applicant's criminal history on a job
9 application through the first interview.
10 It also prohibits questions regarding
11 records of arrests that did not lead to
12 conviction.

13 Since 2011, the Commission has
14 helped to ensure effective implementation
15 of the ordinance both through education
16 and enforcement. We created outreach
17 materials and partnered with groups such
18 as the Mayor's Office of Reintegration
19 Services, RISE, the Commerce Department,
20 and local ex-offender advocacy
21 organizations to conduct targeted
22 information sessions and trainings that
23 have reached hundreds of employers and
24 thousands of people with criminal
25 records. In addition, we have

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2 investigated and successfully resolved
3 over 100 complaints regarding
4 non-compliance, both by large and small
5 employers, and we have been successful in
6 quickly gaining compliance from almost
7 all of them.

8 While Ban the Box has been
9 helpful in removing a huge barrier from
10 the application process, our City can and
11 should do more. To be truly effective,
12 it is clear that the law needs to do more
13 than simply remove the box from the
14 application. It needs to ensure that
15 once an employer discovers that an
16 applicant has a criminal record, the
17 applicant will not be summarily rejected
18 for a job, but rather will be provided an
19 individualized assessment for the
20 particular job, consistent with existing
21 state law and federal EEOC guidance.

22 Pennsylvania Code Title 18,
23 Section 9125 requires that convictions
24 may be considered by the employer only to
25 the extent to which they relate to the

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2 applicant's suitability for employment in
3 the position for which the person has
4 applied. It also contains a notice
5 requirement mandating that an employer
6 notify the applicant in writing if the
7 decision not to hire the applicant was
8 based in whole or in part on criminal
9 history record information.

10 Best practices and recent
11 guidance by the EEOC echo these higher
12 standards that are in effect in other
13 jurisdictions across the country, such as
14 San Francisco, New York City, Syracuse,
15 and Prince George's County, Maryland. If
16 we are to once again stand at the
17 forefront of offering protections to the
18 formerly incarcerated, our modest policy
19 needs to be amended.

20 The proposed legislation to our
21 current Ban the Box law can be
22 characterized as addressing three main
23 areas: strengthening of current
24 provisions, including new protections and
25 guidelines, and enhancing relief and

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2 penalties for non-compliance.

3 The proposed legislation sets
4 forth mandatory compliance for
5 Philadelphia private and public employers
6 with one or more employees rather than
7 ten or more employees to align with the
8 jurisdiction of the Fair Practices
9 Ordinance. The proposed legislation also
10 makes it clear that all questions about
11 criminal records are prohibited on
12 applications. It is not sufficient to
13 use standardized applications that
14 include a criminal background history
15 question and instruct Philadelphia
16 applicants that they need not answer it.

17 In addition, under the proposed
18 legislation, employers may conduct a
19 criminal background check only after a
20 conditional offer of employment is made
21 rather than after the first interview.
22 This change will make it clear that if an
23 applicant is denied after a conditional
24 offer is made, the decision was based on
25 the applicant's criminal background

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2 rather than on his or her job
3 qualifications. This transparency is
4 essential for all parties, including the
5 PCHR as the enforcing agency. Delaying
6 the background checks benefits both
7 jobseekers who initially will be assessed
8 only on their merits and employers who
9 will get to focus their resources to
10 choose the best candidate from a pool of
11 applicants. Currently, over 43 cities
12 and counties across the country require
13 employers to delay background checks
14 until after a conditional offer is made.
15 The City of Philadelphia as an employer
16 has utilized this policy for the past ten
17 years.

18 The proposed legislation
19 prohibits employers from automatically
20 excluding any applicant with a criminal
21 conviction from a job or a class of jobs
22 unless exempted by law. In addition, an
23 employer may not ask whether an applicant
24 is willing to submit to a criminal
25 background check. However, an employer

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2 may inform an applicant of its intent to
3 conduct a criminal background check after
4 a conditional offer of employment is
5 made, provided that its notice is
6 concise, accurate, made in good faith,
7 and states that any consideration of the
8 background check will be tailored to the
9 requirements of the job.

10 Finally, an employer may reject
11 an applicant based on his or her criminal
12 record only if the employer can
13 reasonably conclude that the applicant
14 would present an unacceptable risk to the
15 operation of the business or to
16 co-workers or customers and rejection of
17 the applicant is compelled by business
18 necessity.

19 In determining whether an
20 applicant would present an unacceptable
21 risk to the operation of the business,
22 the proposed legislation mirrors federal
23 guidance and mandates that the employer
24 consider the nature of the offense, the
25 time that has passed since the offense

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occurred, the applicant's employment history before and after the offense and any period of incarceration, duties of the job sought, character and employment references, and evidence of rehabilitation since the conviction.

While the current law does not impose a limit on how far back an employer may look at a criminal history, proposed legislation sets forth seven years, excluding any periods of incarceration. Numerous studies have shown people with criminal records are not likely to offend if they have not had any interaction with the criminal justice system in 3.8 years. In fact, it is unclear whether the existence of a criminal record can predict negative work behavior at all.

If an employer decides to reject an applicant, the employer must notify the applicant of the rejection in writing, which is in line with Pennsylvania law, provide the applicant with a copy of the criminal history

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2 report, and allow ten business days for
3 the applicant to provide evidence of the
4 inaccuracy of the information or an
5 explanation of what is in the report.
6 Employers also will be required to post
7 provisions of the Ban the Box law on its
8 website and premises where applicants and
9 employees are most likely to take notice
10 and read the posting.

11 A law is only effective if
12 there are practical enforcement
13 mechanisms. The current law has weak
14 penalties for non-compliance, a \$2,000
15 fine that is paid to the City, not the
16 complainant. Under the proposed
17 legislation, the remedies are in line
18 with the Fair Practices Ordinance's
19 longstanding enforcement mechanisms.

20 If the applicant believes that
21 he or she has been rejected for
22 employment in violation of the Ban the
23 Box ordinance, the applicant can file a
24 complaint with the PCHR within 300
25 calendar days of the violation. If an

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2 employer is determined by the Commission
3 to have violated the law, the Commission
4 may order a cease and desist order to the
5 employer, any injunctive relief that PCHR
6 deems appropriate, payment of
7 compensatory damages, payment of punitive
8 damages not to exceed \$2,000 per
9 violation, payment of court costs, and
10 reasonable attorneys' fees.

11 If within one year after filing
12 a complaint the PCHR dismisses the
13 complaint or the parties have not reached
14 a conciliation agreement, the person
15 bringing the charge may file a private
16 right of action in court -- a private
17 action in court. After filing a private
18 action, the court may grant any relief it
19 deems appropriate.

20 Ratification of Bill 150815
21 will remove barriers to employment and
22 provide true assistance to our returning
23 citizens' reintegration into their
24 communities and back into the City of
25 Brotherly Love. The new legislation also

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2 will provide greater clarity and guidance
3 to employers. The economic success of
4 our city is inextricably linked to the
5 ability of our formerly incarcerated
6 residents to obtain and maintain
7 employment.

8 We look forward to continue to
9 work with you on this legislation as it
10 advances in Council. I ask that the
11 Council rules be suspended to allow the
12 first reading at the next session of
13 Council.

14 Thank you for the opportunity
15 to testify. I can answer any questions.

16 COUNCILMAN JONES: Thank you
17 for your testimony. I just want you to
18 know, I have a new-found appreciation for
19 legal attorneys. You guys passionately
20 fight for your cause.

21 MS. LANDAU: Thank you.

22 COUNCILMAN JONES: Thank you.

23 And pull the mic to you, state
24 your name for the record, and please
25 begin your testimony.

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2 MR. LYNCH: Thank you very
3 much, Councilman Jones. Good afternoon.
4 My name is Brendan Lynch. I'm a staff
5 attorney with the Employment Unit at
6 Community Legal Services of Philadelphia.
7 Thank you for the opportunity to testify
8 today about Bill No. 150815. This is an
9 important piece of legislation that would
10 greatly advance the work that Council did
11 four years ago -- is there too much of an
12 echo, by the way?

13 COUNCILMAN JONES: Say again.

14 MR. LYNCH: Is there too much
15 of an echo?

16 COUNCILMAN JONES: No. That's
17 me.

18 MR. LYNCH: -- (continued)
19 greatly advanced the work Council did
20 four years ago to level the playing field
21 for people with criminal records who want
22 nothing more than to work and contribute
23 to society.

24 There remains a profound need
25 for action to assist people with criminal

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2 records who need to find work. At CLS it
3 is still the case that the most common
4 reason that people seek the assistance of
5 the Employment Unit is that their
6 criminal record is preventing them from
7 getting jobs. I should say our mission
8 is to serve your constituents, the
9 residents of Philadelphia. That's who we
10 get funding to serve. That's who comes
11 in to see us, and that's who complains to
12 us that they can't find work.

13 We can often provide some
14 assistance by helping people to expunge
15 charges for which they were not convicted
16 or in some cases to expunge summary
17 convictions. Those are the very lowest
18 level of charge. People still face
19 barriers, however, if they are not
20 eligible for expungement or if the judge
21 denies their petition for expungement.

22 Ultimately, the most serious
23 barriers to employment are caused by
24 misdemeanor and felony convictions,
25 which, unless the General Assembly

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2 changes state law, cannot be expunged for
3 anyone who is under 70 years of age. The
4 only way to remove those charges from
5 one's record is to get a pardon from the
6 Governor, and pardons take a long time to
7 get and are granted only infrequently.
8 Thus, helping formerly convicted people
9 have a fair shot at a job in spite of
10 their criminal records remains a pressing
11 concern.

12 The proposed amendments to
13 Chapter 9-3500, the Fair Criminal Record
14 Screening Standards Ordinance, promise to
15 ensure truly fair hiring practices by
16 establishing robust protections for
17 Philadelphia workers and thereby bring
18 Philadelphia into line with the many
19 other states and cities that have
20 embraced these principles.

21 The current requirements of the
22 Fair Criminal Record Screening Standards
23 Ordinance, also known as the Ban the Box
24 law, while they are useful, have not been
25 sufficient to ensure fair treatment of

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2 job applicants with criminal records.

3 The current version of the ordinance only
4 addresses the timing of an inquiry into
5 an applicant's criminal record as well as
6 barring questions about arrests which did
7 not result in conviction. CLS continues
8 to see a steady stream of Philadelphians
9 who have been denied work for a variety
10 of reasons which are not addressed by the
11 current text of the ordinance. People
12 ask us for help when they have been
13 denied a job or have been terminated from
14 a job due to criminal convictions on
15 charges which are unrelated to the
16 applicant's suitability for the job or
17 due to minor outdated offenses and even
18 arrests, for that matter.

19 We also regularly hear from
20 people who have been terminated from a
21 job due to an old conviction where a new
22 manager or a new owner has completely
23 disregarded the worker's long history of
24 performing the job successfully and
25 without incident after the conviction,

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2 even though that job history is and
3 should be obvious and important evidence
4 of the worker's rehabilitation and
5 suitability for that job.

6 So while we do see continued
7 violations of the current Ban the Box
8 law, most improper denials of employment
9 that we see are by employers that are
10 acting in compliance with the current
11 text to the ordinance. It's clear to us
12 that many employers deny jobs to people
13 with criminal a record based on
14 irrational fears and stereotypes. They
15 make the assumption that once a person
16 has been convicted of a crime, they will
17 forever remain a higher threat to commit
18 a crime in the future than someone
19 without a record.

20 It's important to recognize
21 that this stereotype is deeply flawed
22 and, as an automatic rule applied to
23 everyone with a record, it is simply
24 false. The U.S. Equal Employment
25 Opportunity Commission published an

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2 official guidance in 2012 on the use of
3 arrest and criminal records in
4 employment, which pointed out that
5 multiple studies that -- they pointed to
6 multiple studies which demonstrate that
7 in fact people who have been convicted
8 are not necessarily more likely to commit
9 a crime in the future than any member of
10 the general public.

11 In many cases, someone who has
12 been arrested once and has remained crime
13 free for more than seven years is
14 statistically no more likely and in some
15 cases less likely to commit a crime in
16 the future than any random person on the
17 street. These studies prove that the
18 common assumptions by employers are often
19 baseless, but nevertheless, these
20 stereotypes are deeply rooted and hard to
21 overcome.

22 I don't know if it would be
23 appropriate to reference submitted
24 planned testimony that I've seen for
25 today's hearing by one of the other

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2 witnesses. I point to it because it is
3 to me a striking example of the
4 persistence of these unfounded fear-based
5 stereotypes. The testimony that was
6 submitted by the Pennsylvania Apartment
7 Association includes the statement that,
8 The time passed since most serious
9 offenses have little bearing on whether
10 the applicant should be entrusted to keys
11 to people's homes or information about
12 their personal or financial lives.

13 Now, I believe a witness from
14 that group is going to be able to testify
15 later. She will have every opportunity
16 to address that. I just want to point
17 out there is no support offered for that
18 statement. As far as I know, it is
19 false. It is not true. There are
20 statements -- there are studies which
21 have looked at the empirical evidence on
22 that point, and they have concluded that
23 it is not true. It actually does have
24 very significant bearing on whether the
25 person is a risk to commit crimes in the

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2 future, and that is precisely the type of
3 unfounded fear-based stereotype that we
4 need strong laws to overcome, which is
5 precisely why we are pleased to support
6 the Chairman's proposed amendments.

7 The EEOC has also noted that
8 prohibitions on employing people with
9 records will often violate the Civil
10 Rights Act of 1964 because they have a
11 disparate impact on black and Hispanic
12 workers, who are more likely to be
13 arrested and to be convicted than white
14 defendants for the same pattern of
15 behavior. This means that employers'
16 unfair assumptions are being applied
17 disproportionately to black and Hispanic
18 workers.

19 Due to these overlapping laws,
20 we need strong laws, both to force
21 employers to get past their assumptions
22 and also to counteract the
23 disproportionate effect of the criminal
24 justice system on minority jobseekers.
25 The Chairman's bill to amend the current

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2 ordinance would create the kind of strong
3 law that we need.

4 I testified four years ago
5 before Council regarding the bill that
6 established the current ordinance and I
7 noted at the time that I hoped Council
8 would go further and enact several
9 additional principles, and I'm very glad
10 to note that these amendments would do
11 two of the things that I recommended.
12 First of all, that Philadelphia include
13 standards for the consideration of
14 criminal convictions, including
15 requirements that the employer consider
16 the nature of the offense, the amount of
17 time that has passed, the relationship of
18 the conviction to the job being sought
19 and other factors, such as evidence of
20 rehabilitation. Secondly, I recommended
21 that Philadelphia provide that employers
22 cannot consider convictions that are more
23 than a certain number of years old.

24 Bill No. 150815 would do both
25 of those things. It would also make

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2 several other sensible improvements to
3 the current ordinance. It would
4 establish that the law apply in a manner
5 parallel to our Fair Practices Ordinance,
6 as Rue Landau has already testified
7 about, including a private right of
8 action. I should note that Pennsylvania
9 state law already provides a private
10 right of action in many instances. Any
11 Pennsylvania resident not hired on the
12 basis of a record which is not relevant
13 to the applicant's suitability for the
14 job has a right to file suit in court.
15 These amendments would allow
16 Philadelphians to take legal action
17 regarding a somewhat wider array of
18 discriminatory actions, but would also
19 require that the victims first go through
20 the Commission of Human Relations'
21 hearing process. And in practice,
22 virtually all complaints would get
23 resolved by the Commission before they
24 ever went to court. That has certainly
25 been our experience when we have brought

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2 complaints before the federal EEOC.

3 The bill would also require
4 that employers post notice of the law's
5 protections and require a conditional
6 offer of employment prior to having
7 criminal records checked. It would also
8 require that people get notice and a copy
9 of their record when the employer plans
10 to deny them a job on the basis of a
11 record, also echoing the current state
12 law, as well as giving them ten days to
13 address anything in the record that may
14 need to be corrected or may need an
15 explanation.

16 The requirement of conditional
17 offer of employment prior to running a
18 criminal background check echoes the
19 requirements set out in the Americans
20 with Disabilities Act, which requires a
21 conditional offer before an employer can
22 inquire about an applicant's disability
23 or can make the applicant take a physical
24 exam. The reason for this is simple:
25 both disability and criminal records are

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2 areas where discrimination has been
3 widespread, and so lawmakers have
4 isolated that aspect of hiring so that
5 employers cannot invent a pretext or
6 pretend that there was some other
7 non-discriminatory reason why the
8 applicant was not hired.

9 Nevertheless, in my experience,
10 I'm happy to report many employers in
11 Philadelphia already do exactly what this
12 bill would require in that respect. They
13 put off review of an applicant's criminal
14 record until after they've made a
15 conditional offer, and numerous employers
16 in Philly hire people and have them start
17 work before the results of a background
18 check come back. The experience of these
19 companies shows that it's quite feasible
20 for employers to comply with this
21 requirement.

22 I understand that there may be
23 some concerns that small businesses in
24 particular will need to hold a position
25 open while a background check is done

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2 and, if necessary, while the applicant
3 gets a chance to explain the record or
4 correct any errors. I want to point out,
5 though, that any business which has the
6 ability to order and pay for a background
7 check should also have the ability to
8 handle and consider that background check
9 appropriately, and as a matter of fact,
10 in many cases, they are probably already
11 required by law to provide for such
12 waiting time. If they get their
13 information from the official state
14 repository of criminal history record
15 information, which is the database
16 maintained by the Pennsylvania State
17 Police, it is standard for the results to
18 take 30 days to come back from
19 Harrisburg. If they use a third-party
20 background check from a consumer
21 reporting agency, they must wait for the
22 background search to be completed and the
23 report to be prepared and then, under
24 federal law, they must give pre-adverse
25 action notice to the applicant, with an

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2 opportunity for the applicant to review
3 and dispute the report before a final
4 decision is made to deny employment.

5 In either case, we are
6 particularly glad to see the requirements
7 that applicants be given a copy of their
8 report and a chance to dispute it,
9 because criminal record databases are
10 replete with errors. At CLS we
11 continually see Philadelphians who have
12 incorrect information listed in their
13 criminal background reports. The State
14 Police did an official audit of their own
15 official database a number of years ago.
16 This goes back about 12 years now. Their
17 own audit found that 30 percent of
18 individual criminal history records had
19 errors in them. Judging people
20 accurately and assessing the risk that
21 they actually pose requires considering
22 their true records.

23 Once they have an accurate
24 record to review, under these amendments,
25 employers would have to apply criteria to

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2 ensure that the applicant received fair
3 consideration. Those are the criteria I
4 mentioned before and that are recommended
5 in the EEOC's guidance.

6 With regard to the seven-year
7 lookback period in this bill, for a long
8 time it was the case that when an
9 employer did a background check through a
10 third-party consumer reporting agency,
11 they were only able to see convictions
12 from within the last seven years. That
13 was pursuant to federal law. Only in
14 1998 was the law changed to allow them to
15 report convictions indefinitely. So
16 rather than imposing a radical brand new
17 rule, the seven-year lookback period in
18 this bill would merely reinstate the rule
19 that used to apply to typical employer
20 background checks that many employers did
21 for a very long time, in addition to
22 echoing a provision that many other
23 states and cities have included in their
24 Ban the Box laws.

25 I have not heard in my work, in

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2 my research on this topic, in my
3 conversations with other advocates, in my
4 review of the news, I have not heard any
5 reports at all of any problems in other
6 jurisdictions arising from fair hiring
7 laws. I have often heard predictions of
8 problems. I have never heard any
9 evidence or reports of actual problems.
10 There's no evidence that I know of that
11 people with records who are getting
12 access to jobs are hurting the companies
13 that they work for. If anything,
14 employers often comment that the formerly
15 convicted are among their most dedicated
16 and reliable employees, since they are
17 determined to make the most of their new
18 opportunity.

19 There has also been, as far as
20 I've heard from any source -- and I
21 welcome people who contradict this, and I
22 have never heard a single person
23 contradict it. There has been no
24 explosion of negligent hiring lawsuits
25 against employers who were obliged to

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2 hire applicants who they might previously
3 have rejected. I understand that
4 employers generally are concerned about
5 the prospect of being sued for
6 negligently hiring someone with a record
7 who allegedly goes on to harm someone in
8 the course of their employment, but, if
9 anything, these amendments should help
10 employers, not hurt them, because it is
11 impossible to imagine that they would be
12 held liable for failing to do something
13 that it is illegal to do. If we were
14 clearly against the law in Philadelphia
15 to consider convictions from over seven
16 years ago, that would surely be a good
17 defense in court against anyone who tried
18 to sue an employer for failing to exclude
19 an applicant based on a conviction from
20 more than seven years ago.

21 The improvements in the law
22 that these amendments would produce are
23 not breakthroughs or innovations.
24 Instead, they would simply serve to bring
25 Philadelphia into line with the many

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2 other jurisdictions that have already
3 enacted these policies and with the
4 principles in current state law and
5 incorporated for decades into guidance
6 issued by the EEOC.

7 The Obama Administration's My
8 Brother's Keeper Task Force has endorsed
9 hiring practices which give applicants a
10 fair chance and allow employers the
11 opportunity to judge individual job
12 candidates on their merits. If an
13 employer wants to run a background
14 check -- and many of them do -- there are
15 laws in place and have been in place for
16 a long time that govern how they can
17 collect and use information in credit
18 reports; for instance, the federal Fair
19 Credit Reporting Act. The widespread
20 availability of criminal history records
21 is much more recent than the
22 establishment of credit bureaus and the
23 law has not yet fully caught up with the
24 complications caused by these criminal
25 record databases, but there is no reason

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2 an employer should not or could not apply
3 the same general principles that apply to
4 use of an applicant's credit history.
5 The fair hiring policies that have been
6 adopted around the country are no more
7 than an effort to ensure that this type
8 of sensitive personal information is only
9 used appropriately and in a fashion that
10 does not exacerbate the existing
11 disparities in employment and in criminal
12 justice.

13 I applaud the Chair for his
14 efforts to bring attention to this issue
15 and to offer proposals to ameliorate the
16 problem. I commend Council for its
17 attention to the issue of employment
18 barriers for citizens who have criminal
19 records. I hope that Council will pass
20 this bill and join the many other cities
21 and states that have led the way in this
22 effort.

23 Thank you for the chance to
24 testify, and I'm likewise happy to answer
25 any questions.

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2 COUNCILMAN JONES: Thank you
3 for your testimony. And for the record,
4 you're an attorney as well?

5 MR. LYNCH: I am indeed. I
6 confess.

7 COUNCILMAN JONES: Okay. For
8 the record, Councilman Squilla was here
9 and is going to come back, and Councilman
10 Henon is with us.

11 Do you have any questions for
12 this panel?

13 COUNCILMAN HENON: I do not,
14 Mr. Chair.

15 COUNCILMAN JONES: All right.
16 Thank you.

17 A couple of questions. So
18 these perceptions of safety versus facts
19 of safety are the difference between a
20 lot of the fear of hiring an ex-offender,
21 and that when you look at the data, it
22 shows that there is not a greater risk,
23 but after seven years in cases, less of a
24 risk by considering their employment in
25 many categories. Is that true?

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2 MR. LYNCH: That's certainly
3 true. And, again, I don't have it with
4 me, but I can certainly provide it to the
5 Chairman and any member of Council who
6 would like to see it. The EEOC guidance
7 includes links to several of these
8 studies. I can tell you from memory it
9 is at Footnote 118 of the EEOC's April
10 2012 guidance on the use of arrest and
11 criminal records in employment. It's
12 online. People can look it up. They can
13 view the studies for themselves. And
14 that is the shorthand version of what
15 they say.

16 It is certainly more
17 complicated. There are numerous factors
18 that go into the predictability of
19 whether someone is likely to recidivate
20 in the future. Certainly someone with
21 only a single arrest is less likely than
22 someone with multiple arrests. I would
23 say that when trying to assess the
24 likelihood of recidivism down the road,
25 trying to predict recidivism in a

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2 minority report sort of world that we're
3 moving towards, the factors that this
4 bill allow employers to consider are
5 precisely the factors that go into that
6 sort of predictability.

7 COUNCILMAN JONES: Are human
8 service directors usually familiar with
9 reading a criminal sheet? Do they give a
10 course for that; do you know?

11 MR. LYNCH: I don't know how
12 much -- I don't know if the typical human
13 resources director has training in it,
14 but in my experience, they typically do
15 have experience in it.

16 COUNCILMAN JONES: So my
17 question is, a lot of times if you are
18 arrested but yet not convicted, that pops
19 up on your -- I had the case of hiring a
20 summer supervisor. We do background
21 checks because they're around kids. We
22 looked through it and it said arrested,
23 arrested, arrested, and I said, Oh, my
24 God, oh, my God, we can't hire this
25 individual. Wonderful person, seems like

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2 a good addition to the staff, but we
3 can't. And come to find out he was never
4 convicted for anything. He was arrested
5 on a number of occasions, and many of
6 them were multiple listings. Because I
7 was not trained to see that, when we
8 finally brought him in -- and we complied
9 with the law, by the way -- we were
10 making him his final offer, all of the
11 sudden I realized that my initial
12 perception of him was true, that he was
13 in a rough neighborhood, sometimes you
14 get swept up and sometimes you get caught
15 up, and if you are not convicted, you're
16 not convicted and your options shouldn't
17 be.

18 I'm just saying my point is,
19 people aren't always acquainted with how
20 to read a criminal background sheet, and
21 it's not automatically taken off once you
22 are found not guilty.

23 MR. LYNCH: That's absolutely
24 correct, Mr. Chairman. A couple of other
25 points briefly. Number one, this goes to

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2 my point that criminal records, even if
3 you can read them correctly, often
4 contain errors. I had a client. I'll
5 leave him anonymous, but he received a
6 third-party consumer reporting agency
7 background check which said that he had
8 been convicted of felonies and sentenced
9 to five years in prison. He appealed
10 that case and was found not guilty on
11 those charges. He was convicted of a
12 single misdemeanor, given one year of
13 probation. That is a humongous
14 difference. But if you looked at the
15 erroneous report, boy did he look like
16 someone who had been convicted of a very
17 serious felony and also looked like a
18 liar, because he stood up and told you
19 honestly, No, I have no felonies in my
20 record, and then you look at a sheet of
21 paper that appears to say otherwise.
22 That's precisely the sort of thing that
23 people need to be given an opportunity to
24 correct, and this bill would give them
25 that opportunity.

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2 The second thing I just wanted
3 to say is that some records are really
4 hard to read. Even if you get them, they
5 are -- they vary in their legibility, in
6 their clarity, with FBI records being the
7 most notorious. It's just a jumble of
8 codes and words, hardly in any order at
9 all. It's often not even possible to
10 tell whether someone was convicted or the
11 charges were dropped or they were
12 acquitted, and employers are often left
13 to assume the worst.

14 COUNCILMAN JONES: So someone
15 can be summarily dismissed before they
16 had an opportunity to really present
17 their case without this.

18 MS. LANDAU: And that's what
19 the amendments to -- or this proposed
20 legislation would fix, by incorporating
21 the federal law, the state law to this
22 into our current Ban the Box law. The
23 way you were describing how you hired
24 your summer student is exactly how this
25 should go. You have to assess the

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2 criminal record. You give them an
3 opportunity to talk to you about it. You
4 give them a copy of it. They can come
5 and explain it to you, and then you make
6 your determination in the end, the nature
7 of the offense -- first of all, for you
8 there wasn't even a conviction, but if
9 there was a conviction, the nature of the
10 offense, when it occurred, is there a
11 connection to that offense and the job
12 that they want.

13 The Commission on Human
14 Relations, we are -- all we want to do is
15 educate employers and the public on this
16 law, and we will help in whatever way we
17 can. We've already talked to the various
18 Chambers offering our services. My
19 wonderful Deputy was a former public
20 defender and is very well versed in
21 reading criminal history reports and can
22 probably come up with a pretty good
23 training for people as well.

24 We would like to help in any
25 way. We are not out at all -- just from

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2 the beginning of when this law was passed
3 until now, our job is not a "gotcha" job
4 right now. We don't want to find
5 employers in violation of this law. We
6 want them to comply with the law. That's
7 great. The more employers complying with
8 the law, the more people are getting a
9 fair chance at just going through the
10 process and potentially being considered
11 for a job. That's all we want. And the
12 longer it takes, the more people who are
13 being excluded. So we'll do whatever
14 education it takes to make that happen.

15 COUNCILMAN JONES: I want to
16 thank you guys for your testimony.

17 Are there any other questions?

18 (No response.)

19 COUNCILMAN JONES: Thank you.
20 If you'd like to stick around, we'd like
21 to keep you there.

22 Will the Clerk please read the
23 next panel to testify.

24 THE CLERK: Christine
25 Young-Gertz, Ann Schwartzman, and Wayne

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2 Jacobs.

3 COUNCILMAN JONES: Thank you
4 for your patience. Guys, would you
5 please come to the table to testify.

6 (Witnesses approached witness
7 table.)

8 COUNCILMAN JONES: Thank you.

9 MS. SCHWARTZMAN: Wayne stepped
10 out for a minute. He'll be right back.

11 COUNCILMAN JONES: That's all
12 right. He was last anyway.

13 Would you bring the mic closer
14 to you and state your name for the record
15 and please begin your testimony. And,
16 again, thank you guys for your work over
17 the last almost a year or more. So we
18 appreciate that.

19 MS. SCHWARTZMAN: Thank you.

20 COUNCILMAN JONES: Mr. Jacobs,
21 could you come up to the testimony table,
22 please.

23 MS. SCHWARTZMAN: Thank you,
24 and thanks for this opportunity. My name
25 is Ann Schwartzman. I'm the Executive

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2 Director of the Pennsylvania Prison
3 Society. I also have with me Samantha
4 Cruz, who is our Research Assistant and a
5 student at Penn. And just for the
6 record, let me say we are both social
7 workers.

8 The Pennsylvania Prison Society
9 was originally known as the Philadelphia
10 Society for the Alleviation of Miseries
11 of Public Prisons. We were founded in
12 1787 by Ben Franklin and all the movers
13 and shakers of the day. When we started,
14 there were 200 individuals incarcerated
15 at the Walnut Street jail. Now, 228
16 years later, we're a statewide agency
17 that works with over 100,000 individuals
18 incarcerated in the county, in the
19 counties across the state, in the state,
20 and in the federal institutions.

21 The Pennsylvania Prison Society
22 provides programs and services, but we
23 also provide advocacy and work a lot with
24 inmates who are incarcerated, returning
25 citizens, families, and communities. A

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2 lot of the work that we do is
3 collaborative, because no one agency can
4 make these changes themselves. They're
5 critically important and they're
6 critically difficult.

7 One of the things that we've
8 seen over the years, though, is the new
9 Scarlet Letter has changed from the big A
10 to the big X, and individuals who serve
11 time in prison come out and they once
12 again serve time but on the streets. And
13 we're saying that because it's difficult
14 to get a job, it's difficult to go to
15 school, it's difficult to pay rent or a
16 mortgage, it's difficult to provide for a
17 family. But one of the ways you can beat
18 that is to get a good education and to be
19 able to work. That's why we support Ban
20 the Box. Because we think it's very,
21 very important for people to get a foot
22 in the door, for people to get a chance
23 to try.

24 Ban the Box is absolutely no
25 guarantee that an individual will get a

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2 job. It is a guarantee that you might
3 get a possibility of having an interview,
4 of talking to someone, showing your
5 skills and actually showing that you're
6 worthy of that position.

7 Education and employment are
8 critical not only for the individual
9 incarcerated and coming out, but for that
10 individual's family and that individual's
11 neighborhood. We need it as our tax base
12 in Philadelphia. There are at least
13 200,000, if not more, individuals who are
14 formerly incarcerated, on probation or
15 parole or in drug rehab or some other
16 situation here in the City of
17 Philadelphia. Ban the Box is one way to
18 move on this issue.

19 You may remember that three or
20 four years ago there was a job fair
21 sponsored by the City of Philadelphia.
22 In that job fair, on a nice sunny,
23 beautiful day, over 5,000 formerly
24 incarcerated individuals crowded into the
25 MSB building. Most didn't get in,

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2 because there were just too many. None
3 of the organizers thought that so many
4 would actually come. But the bottom line
5 is, people serve time and they change.
6 People serve time and they're ready to
7 start new. People serve time and they're
8 ready for a second chance. Not
9 everybody. Just like anything else, not
10 everybody. But a number of these
11 individuals deserve and can work well
12 with a second chance if they're given it.
13 And, again, that's what Ban the Box does.

14 What we've provided today is a
15 fact sheet that lists a number of other
16 jurisdictions that also have Ban the Box.
17 It's not new, although it's relatively
18 new as a provision in looking at formerly
19 incarcerated individuals. In 1998,
20 Hawaii was actually the first state, but
21 since then, there are over 19 states that
22 have some form of Ban the Box or a fair
23 hiring practice. What I think is even
24 more astonishing is that over 100 cities
25 and counties now have some form of Ban

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2 the Box or fair hiring. This is
3 something that's being swept up in the
4 country because people realize it's
5 important.

6 We have over 2.3 million
7 individuals incarcerated and then
8 hundreds of thousands more on probation
9 and parole. To give anybody a chance of
10 a good career, of a good path, of
11 providing a roof over their head for
12 their family, they need a job, and to get
13 a job, Ban the Box can help.

14 In Pennsylvania alone, we're
15 looking at at least eight jurisdictions
16 that have some form of fair hiring or Ban
17 the Box, and that includes Philadelphia,
18 Pittsburgh, Lancaster, Allegheny County,
19 Reading, Allentown, recently provisions
20 pending in Dauphin County and also Centre
21 County is looking. And I don't think
22 that's the stop. That's just the
23 beginning. All of these jurisdictions
24 are looking at what Philadelphia is doing
25 because Philadelphia is the leader in Ban

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2 the Box.

3 What we're also seeing, though,
4 is a handful of pieces of legislation in
5 the state before the Pennsylvania General
6 Assembly that also talk about fair hiring
7 and Ban the Box, and we're not surprised
8 if in the next session or two, we're
9 going to see a statewide provision that
10 calls for Ban the Box and the
11 opportunity, again not the guarantee but
12 the opportunity, for someone to plead
13 their case, to work with an employer
14 hopefully to get that job so that they
15 can start their life on a good track.

16 The Pennsylvania Prison Society
17 thinks that these amendments are
18 important, thinks that these amendments
19 are critical. We're very pleased to have
20 been working on Ban the Box, and we think
21 this is just the beginning of good,
22 positive legislation that can change the
23 face of returning citizens here in the
24 Philadelphia area.

25 Thank you.

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2 COUNCILMAN JONES: Thank you
3 for your testimony.

4 We're going to hear from the
5 entire panel before we get into
6 questions.

7 Ms. Gertz.

8 MS. YOUNG-GERTZ: Thank you so
9 much. My name is Christine Young-Gertz,
10 and that's Y-O-U-N-G hyphen G-E-R-T-Z.
11 I'm with the Pennsylvania Apartment
12 Association. And may I say, I'm a
13 lawyer, but may I also tell you that I'm
14 no stranger to the social service world.
15 Prior to going to law school, I was a
16 recreation therapist, primarily in
17 geriatric populations. And so I've been
18 acquainted with the social service side
19 of things, and honestly I think that's
20 why I -- and I will tell you, I represent
21 my members too -- fully respect the
22 spirit of the proposed bill and what's
23 trying to be done today. But my members
24 are providers of rental housing for tens
25 of thousands of Philadelphians, and I

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2 respectfully -- I want to state our case
3 regarding this bill today.

4 As I said, we provide tens of
5 thousands of homes. Because we provide
6 homes to Philadelphians, we have to voice
7 our opposition to these limits as they
8 are applied to the rental housing
9 industry, the apartment industry. And
10 today I respectfully request that given
11 the nature of the sensitivity of the
12 service that we provide, homes to people,
13 and inasmuch as the employees on rental
14 properties have keys to people's homes,
15 that an exemption be carved out for the
16 apartment industry. We should be
17 exempted.

18 The multi-family rental
19 employers must have complete discretion
20 to evaluate the criminal conviction
21 records of every job applicant because
22 the myriad of types of criminal
23 convictions could have a bearing on the
24 very sensitive nature of every job in a
25 multi-family rental property. Every job

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2 on the property - property managers,
3 leasing agents, maintenance personnel -
4 presents routine opportunities for
5 employees to have access to and knowledge
6 of the very personal details of the lives
7 of every resident. It is the property
8 owner's duty to do everything in his or
9 her ability to safeguard residents and
10 residents' information. Any restriction
11 on that ability, on the ability of the
12 rental owner to check and consider the
13 entire criminal convictions history of
14 prospective employees during any stage of
15 the hiring process, would prevent the
16 owner from fulfilling that duty, doing
17 the best they can to provide safe homes
18 for their customers, for their residents.

19 All multi-family employees in
20 the course of their duties have access to
21 residents' homes, keys to their homes,
22 and the residents' personal financial
23 information. They become intimately
24 acquainted with the daily lifestyle and
25 patterns of every resident. They can see

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2 when residents go to work, when they come
3 home. They know when apartments are
4 empty. They know when family and friends
5 come and go, and they know when children
6 come and go and perhaps, most
7 importantly, if I could just respectfully
8 request consideration of children who
9 live in rental homes. All our employees
10 can see when they leave for school and
11 return home, if they're alone in the
12 apartment.

13 We have assured as a society in
14 Pennsylvania, I think in most every
15 state, that when our children go to
16 school, they are surrounded by employees
17 and volunteers who have been screened to
18 make sure that our children will be safe
19 in that environment. Can we ask no less
20 when they go home at 3:30 in the
21 afternoon, if they can go home to homes
22 whose employees have been screened and
23 whose rental owners have taken utmost
24 care as much as possible to keep them
25 safe?

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2 And the importance of the
3 safety of other employees must also be
4 considered as well as the operations of
5 the properties. But, most importantly,
6 we are very concerned about the job we
7 have to do in providing safe homes for
8 our residents. Our employees have keys
9 to people's homes, and that is why we
10 feel justified in requesting an exemption
11 for our industry to this bill.

12 The current law and the
13 proposals in 150815 would only jeopardize
14 rental residents and their children. And
15 so along with the very sensitive nature
16 and duties of every job on a rental
17 property, there is no way in a
18 multi-family setting to safely assess an
19 applicant's possible rehabilitation.

20 And I would like to point out
21 one especially troubling provision of
22 this particular bill is the lookback
23 period. With all due respect, if a
24 serious -- if someone has been convicted
25 of a serious crime ten years ago, such as

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2 a child molester, and we're only allowed
3 to look back seven, that is a huge
4 problem, again, when your employees have
5 the keys to people's homes. And I think
6 that if you polled our members, you would
7 find that they do their best to
8 objectively assess every hiring
9 situation. And I can remember when we
10 were some years back talking about the
11 Ban the Box, a number of my members asked
12 me to point out -- and I will do again --
13 they have no interest in making things
14 hard for an applicant who has had
15 misdemeanors or minor infractions or
16 perhaps something of a youthful
17 indiscretion, perhaps something in
18 college years and years later. Our point
19 is the delicate nature of the services we
20 provide and the fact that our employees
21 have access to the very private lives of
22 our residents warrant that we have full
23 discretion over the hiring practices and
24 at every step of the hiring procedures.

25 I can leave it at that. That's

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2 our basic point, and I do appreciate this
3 chance to express that.

4 COUNCILMAN JONES: I'm going to
5 hold my thoughts on that and I'm going to
6 allow Mr. Jacobs to testify, but I will
7 come back and address it.

8 Mr. Jacobs, pull that to you.

9 MR. JACOBS: Thank you for
10 allowing me the opportunity.

11 X-Offenders for Community
12 Empowerment is a proactive crime
13 prevention organization dedicated to
14 reducing the level of crime and violence
15 in the community and resulting in the
16 conviction of thousands of young men and
17 women who represent the future of our
18 people. XCE works with formerly
19 convicted, no longer on probation and
20 parole, but who are forced to live in
21 poverty as a result of their criminal
22 conviction and not because of their lack
23 of skill or education.

24 One of the goals of XCE is to
25 end the economic apartheid against the

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2 formerly convicted as a means of
3 successful reintegration into our
4 community. Our work focuses on ending
5 economic discrimination as well against
6 the formerly convicted by seeking to
7 change the policies that prevent formerly
8 convicted from earning legitimate
9 livelihoods and supporting their family
10 and keeping them out of poverty.

11 In 2003, XCE partnered with Up
12 Against The Law collective to establish
13 the Pardon Me Clinic to assist formerly
14 convicted folks to utilize the pardon
15 process in a way to clean up their
16 criminal background. In 2011, XCE threw
17 their support behind Councilwoman Donna
18 Reed Miller who introduced 100543, what
19 is known as the Ban the Box or fair
20 hiring practice and which the law was
21 passed in April. In 2013, XCE worked
22 with the Faulk Foundation to conduct Ban
23 the Box activities in Pittsburgh. That
24 same year, Councilman Burgess introduced
25 the legislation in City Council,

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2 Prohibiting Unfair Discrimination in the
3 City Hiring Practices Against Persons
4 Previously Convicted.

5 I would like to just say when
6 talking about this issue, I would like
7 for y'all to look at families versus
8 individuals. By including the families,
9 you are now talking about more than one
10 person, because most formerly convicted
11 persons are raising a family, especially
12 the population that I work with. And the
13 population that I work with is no longer
14 on probation and parole, who may have
15 been crime free for 5, 10, 15, 20, 25,
16 30, 40 years and being held -- and still
17 being held responsible for what may have
18 happened those many years ago. This
19 population have reinvented themselves.
20 This population -- I have resumes of
21 folks who went back to school, got
22 Master's degrees and doctorates, but
23 cannot work at their particular skill
24 level because of a criminal background.
25 And we would like for y'all to seriously

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2 look at the seven years, because that
3 seven years gives people an opportunity.

4 People have to have a light at
5 the end of the tunnel. And if we do not
6 pass this, you are actually taking the
7 light from a person who is looking to
8 live a legitimate life and a crime-free
9 life.

10 This seven years is very
11 important, simply because of the fact
12 that for those last seven years, that
13 person have had the opportunity to
14 reinvent themselves, and the seven years
15 also represent that those seven years,
16 those persons are either working, going
17 to school, and an employer can look at
18 and see what a person been doing for the
19 last seven years. And if a person is
20 doing the right thing for the last seven
21 years, you could rest assured that that
22 particular person, when they get that
23 opportunity, they are not going to blow
24 it for a moment of glory. All right?
25 Because why? It's bigger than them.

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2 It's about them and they family.

3 So that's basically the
4 testimony that I'd like to give to
5 Council, and I'd like to thank Council
6 again for allowing us to have this
7 opportunity to also be involved with
8 writing this legislation and putting this
9 legislation together. And, sir, like I
10 said before, we will support y'all
11 passing this bill as it is.

12 COUNCILMAN JONES: Thank you
13 for your testimony. Just for the record,
14 are you an attorney?

15 MR. JACOBS: They call me a
16 jailhouse lawyer.

17 COUNCILMAN JONES: See, all day
18 I've been besieged by attorneys.

19 Let me just say I appreciate
20 all of the testimony that has been given
21 today.

22 Do any members on the Committee
23 have any questions?

24 (No response.)

25 COUNCILMAN JONES: Having said

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2 that, fear versus facts is where I'm at.
3 And I as a child and as a young adult, I
4 remember some of the things I was afraid
5 of, until I got the facts. When Jaws
6 came out, that movie, I was afraid to go
7 in the water the whole summer. But the
8 facts were that I had less of a
9 likelihood of getting bitten by a shark
10 than my fears projected, and based on the
11 facts, I went back in the water again and
12 have enjoyed my summers in Wildwood.

13 I'm afraid to death -- my
14 daughter has me watching this series
15 called The Walking Dead. Now, I'm
16 watching zombies and I'm scared to death.
17 But the reality is, there is no
18 scientific fact behind people coming back
19 from life.

20 So we should have healthy
21 fears, but we should not have
22 unreasonable fears. And I had an
23 opportunity over the course of the
24 holidays to sit with a young man, who is
25 actually my brother-in-law. Hopefully he

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2 doesn't watch Channel 64. But he is a
3 longshoreman now and he has been a
4 productive member of society for quite
5 some time. Matter of fact, model
6 citizen. Matter of fact, an example to
7 some of the younger members of our
8 family. And sheepishly when he was to
9 ask me how things were going, and I told
10 him, I'm passing bills, I'm doing this
11 stuff, and one of them is Ban the Box.
12 He looked up at me and he said, Well,
13 that's important, because he had
14 turned -- this guy had to be closing in
15 on 60. When he was 19 years old, he was
16 convicted of criminal trespass. He's
17 been haunted by that all his life. He
18 has been denied -- so he is such a
19 different person than he was when he was
20 19.

21 And to your point on your
22 testimony, this bill does not stop you
23 from not hiring someone that you have
24 fundamental concerns about performing the
25 sensitive nature of your job. So if you

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2 have concerns about putting keys into
3 someone's hands, you can still rest
4 assured to have that concern, but it
5 won't be based on some unreasonable
6 stuff. You will have talked to that
7 person, heard his story or her story,
8 been given an opportunity to, when you
9 get a sheet, comment on that sheet to see
10 what the circumstances were. At the end
11 of the day, we will not from this Chamber
12 take away your discretion to hire an
13 individual. What we are asking for, what
14 we do need from our neighbors in the
15 private sector is a fair opportunity to
16 give everyone a chance. That's what this
17 bill calls for.

18 And I'm going to recognize
19 Councilman Henon.

20 COUNCILMAN HENON: Thank you.

21 MS. YOUNG-GERTZ: May I just --

22 COUNCILMAN JONES: Yes.

23 MS. YOUNG-GERTZ: If I may, I
24 fully appreciate and accept the notion
25 that we can't be ruled by fear, but we

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2 have to consider when extraordinary
3 circumstances warrants precaution. And
4 in the business of providing people safe
5 homes and the opportunity for employees
6 who serve those renters keys to their
7 homes, privileged information about
8 Social Security numbers, checking
9 accounts, credit cards, reasonable
10 precautions have to remain throughout the
11 hiring process with those who are
12 responsible for providing as safe a home
13 as they possibly can, doing everything in
14 their power, and that's our point.

15 COUNCILMAN JONES: And you
16 are --

17 MS. YOUNG-GERTZ: And I think
18 that -- and, again, you will find that
19 our members -- and, in fact, when we had
20 a discussion about Ban the Box and we
21 talked about prohibiting questions about
22 records until after the first interview,
23 a lot of our guys said, Well, if the
24 prospective employee wants to bring it
25 up, that's a really good time to clear

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2 the air. Look, I was a kid, as -- the
3 example that you just gave is a perfect
4 one, years ago. And they had a chance
5 from the very beginning of the hiring
6 process to do away with any worries about
7 it and that person is still in the
8 running and prospective Employee B and C
9 still might have a shot too, but A is not
10 ruled out.

11 My point about the sensitive
12 nature and the extraordinary
13 circumstances of employment in the
14 multi-family industry, in the apartment
15 industry warrants our exemption,
16 respectively, from restraints.

17 COUNCILMAN JONES: Are there
18 any other questions for this panel?

19 Councilman Henon.

20 COUNCILMAN HENON: I do not
21 have a question for this panel, but out
22 of respect from somebody who has been
23 working in a working group and working
24 and involved with public safety with you,
25 Chairman Jones, it's a part of what we're

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2 discussing here today, but I made a
3 commitment to read this out loud.

4 COUNCILMAN JONES: Please enter
5 it.

6 COUNCILMAN HENON: It's for
7 somebody. And I will submit it for the
8 record.

9 I want to thank Chairman Jones
10 and today's witnesses. Council has been
11 looking at the impact and the involvement
12 in the criminal justice system. The
13 impact from arrest to trial to
14 disposition to confinement can be wide
15 and far-reaching to both the individual,
16 their family, and our city. The
17 conversation we are having today is a
18 layer in a very complex, challenged way
19 that we are facing -- what we are facing
20 here in our city. I believe we need to
21 continue looking at the interdependency
22 of these layers, because none of them
23 stand in isolation.

24 I want to express my commitment
25 on being an active, thoughtful

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2 participant in this ongoing conversation,
3 and I want to work on making our system
4 work in a more fair and efficient way
5 while preserving individual rights and
6 maintaining public safety for our city.

7 And this individual looks
8 forward to working with Chairman Jones
9 and the stakeholders to address these
10 issues. And today is just one part that
11 is not in isolation to the overall
12 concern and public safety issues that we
13 have here in our criminal justice system.

14 So I thought it would be
15 appropriate to read it before the
16 convening of this public hearing. So
17 thank you for your time.

18 COUNCILMAN JONES: Thank you.
19 Thank you for your testimony.
20 Are there any others to testify
21 on this bill?

22 Please approach.
23 (Witnesses approached witness
24 table.)

25 COUNCILMAN JONES: Come to the

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2 table. Thank you, guys, for your
3 patience. And you've been here before.
4 Please pull the mic to you, state your
5 name for the record, and begin your
6 testimony.

7 MR. GRACE: Good afternoon,
8 Mr. Chairman. My name is Joe Grace and
9 I'm a Vice President for State and Local
10 Legislative Affairs at the Philadelphia
11 Chamber of Commerce. Good afternoon to
12 Councilman Squilla, Henon, and
13 Councilwoman Blackwell.

14 I had not prepared written
15 testimony, but the Chamber does care
16 about this issue of reentry. As I
17 expressed to the Chairman in a meeting
18 last week, we care strongly about it.
19 We've been in conversations with some of
20 the incoming members of the Kenney
21 Administration or the
22 Administration-to-be, and we look forward
23 to being part of a proactive process on
24 ways that the business community can
25 interact with the issue of reentry for

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2 returning citizens in our city. It's
3 very important to us.

4 With regard to the current
5 bill, I just want to bring to -- and
6 forgive me for addressing my phone --- to
7 the Chairman's attention that based on
8 the process that you urged, that we have
9 communications back and forth among the
10 advocates, representatives of the
11 business community, et cetera, I think
12 there has been language that's been
13 circulating to amend Bill 150815, and I
14 don't yet see that language yet reflected
15 here today. One piece of amendment
16 concerns the seven-year lookback rule and
17 one concerns the private right of action.
18 I just wasn't sure if that language was
19 in front of the panel.

20 COUNCILMAN JONES: Yes, it is.

21 COUNCILMAN HENON: Duly
22 circulated in a timely fashion.

23 COUNCILMAN JONES: And we
24 appreciate the work, more importantly,
25 during the holiday season of --

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2 MR. GRACE: Great. I just had
3 not seen that when I was over at the
4 table.

5 And then the only other issue
6 is that given all the work that's been
7 done before to date, but I know
8 representing the Chamber our first chance
9 to be involved in the issue was just when
10 we had that roundtable discussion with
11 you about a week and a half, two weeks
12 ago, we were hoping that there would be
13 some more time to work on the drafting of
14 the implementation of regulations to
15 really govern this ordinance. So we were
16 hoping that you might consider, that the
17 Committee might consider delaying the
18 implementation date to -- I think
19 currently in the ordinance it says 30
20 days, and we were hoping to ask for 90
21 days to work on the implementation of
22 regulations.

23 COUNCILMAN JONES: We'll make
24 that amendment and change.

25 MR. GRACE: Thank you,

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2 Mr. Chairman, and thank you for the
3 opportunity to testify briefly on this
4 bill.

5 COUNCILMAN JONES: Thank you so
6 much. Appreciate the work.

7 If you will pull the mic to
8 you. Share the other mic with the
9 gentleman at the table. Would you state
10 your name and begin your testimony.

11 MR. PERRY: My name is Sean
12 Perry. I'm an entrepreneur.

13 COUNCILMAN JONES: Pull it to
14 you. We can't hear you.

15 MR. PERRY: My name is Sean
16 Perry. I'm an entrepreneur, CEO of Ace
17 of Spade Professional Marketing. The
18 reason why I wanted to come up here and
19 testify is because a lot of this stuff
20 speaks on me, especially when it comes to
21 a background. My background is pretty
22 extensive, but more or less it's on basic
23 small, minor things. As you said, you
24 know, getting stopped in bad areas, so on
25 and so forth, going through little

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2 things. One of the main things is
3 carrying a gun without a license. I
4 don't know if you're familiar with a lot
5 of different situations or -- I'm
6 speaking to some of the people that came
7 up here -- a lot of different situations
8 that happen within an underprivileged
9 lifestyle, and sometimes you get caught
10 up in different situations, not
11 purposefully. And when those situations
12 happen, they can hinder you or hold you
13 back from different things.

14 One of the things -- one of the
15 keys that I wanted to point out was that
16 this female mentioned something about,
17 you know, a child molester or somebody
18 walking into their location, one of their
19 homes and so on and so forth and, you
20 know, having access to all these things.
21 A week ago this information was in the
22 paper of a guy -- I'm not sure if it was
23 the New York Times or the Philadelphia
24 Inquirer -- where a guy was a
25 superintendent at a building and he went

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2 into a female's home and he was taking
3 some items of her clothing,
4 undergarments. And I'm not a hundred
5 percent sure, but I'm like probably 75
6 percent sure that this guy that was doing
7 these things did not have a background.
8 The only way this female caught this guy
9 was because of the fact that she started
10 noticing -- as she goes in and out of her
11 home, she started noticing different
12 garments from her dresser was gone and in
13 her laundry basket. And the way she
14 caught this guy or found out about him
15 was she hid one of her old cell phones
16 inside of a basket or something guarding
17 her door and it caught a video of the
18 person walking in through her place.

19 So I would advise someone like
20 you, Ms. Yogurt -- what was your name,
21 Miss?

22 MS. YOUNG-GERTZ: Young-Gertz.
23 I'm sorry. We were having a
24 conversation.

25 MR. PERRY: Ms. Young-Gertz, I

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2 would advise someone like you or even
3 entrepreneurs of businesses, period, to
4 focus on -- one of the bigger keys is,
5 see, ten years ago, we didn't have
6 something or it wasn't as widespread as
7 video cameras and so on and so forth, and
8 being able to have -- not saying we
9 didn't have them, but they weren't used
10 as frequently or as strongly as small
11 businesses or large businesses or large
12 corporations. So I would advise you to
13 maybe possibly invest into or a lot of
14 apartment companies or homes to invest in
15 more video cameras, invest in some more
16 alarm systems. These are the things that
17 we have access to be able to control and
18 maintain security and safety in many
19 ways.

20 So when you think about,
21 okay -- because a lot of times a criminal
22 does not necessarily have to have a
23 background to be a criminal. Before a
24 person is a criminal, what are they?
25 They're a human being, right? So nine

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2 times out of ten a person that will
3 accomplish an act doesn't necessarily
4 have to have a background.

5 I know a lot of people that
6 doesn't have a background that have done
7 way more than I have personally in my
8 whole lifetime. Okay? And I've never
9 literally purposely stepped out and done
10 anything wrong. And I know people that
11 purposely do things.

12 So with that stated, all I'm
13 stating is is to be able to protect your
14 business, to be able to protect all these
15 different situations, if you take steps
16 to ensure security with the different
17 things that we have, from technology to
18 the different securities within your
19 building and so many other things, you
20 can more than likely subtract from or --
21 I'm sorry. My brain is in ten million
22 different ways. You can more than likely
23 take away from the possibilities of risk.

24 COUNCILMAN JONES: Okay.

25 MR. PERRY: That's all I'm

1 12/2/15 - PUBLIC SAFETY - BILL 150815
2 saying.

3 COUNCILMAN JONES: I appreciate
4 the comment, and thank you for your
5 testimony.

6 MR. VANDERHOSE: Hello,
7 everyone.

8 COUNCILMAN JONES: Hello.

9 MR. VANDERHOSE: I would like
10 to take this time out to thank y'all --

11 COUNCILMAN JONES: State your
12 name.

13 MR. VANDERHOSE: My name is
14 Durrell Vanderhose (ph), and this Ban the
15 Box means a lot to me, because I'm one of
16 those statistics or, quote, stereotypes
17 that they're talking about. I have a
18 conviction that's over 20 years, first
19 time, never been in trouble. Went to
20 school, did what I was supposed to do and
21 obeyed the law throughout the years. I'm
22 48. They didn't have this or at least I
23 did not know of the program that
24 Mr. Wayne Jacobs is running. That is a
25 valuable situation for the City of

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2 Philadelphia, because a lot of times as
3 young black men or young men in general,
4 we don't have nowhere to turn to, and
5 programs like that save people lives and
6 it helps to stop re-offenders. Why I say
7 that is because it gives a person hope
8 and strength to believe that not only
9 that they can change, but they can make a
10 difference in society, in their life, in
11 their families, you know, throughout the
12 world in general.

13 We all are human. We all make
14 mistakes, and if we don't learn how to be
15 compassionate for those who are in a
16 rough situation at a rough time, we'll
17 never get past this bill, because this
18 bill is a very important bill for people
19 that don't even understand how they ended
20 up in situations like this, you know.
21 And it takes someone like Mr. Wayne
22 Jacobs to break it down to a person and
23 say, Listen, this is why you are where
24 you at.

25 When I go to -- I'll keep it

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2 short and brief.

3 When I go to fill out an
4 application and on the application it
5 says have you ever been convicted of a
6 felony, I automatically don't even fill
7 it out, because I've been in situations
8 where I filled out the application and
9 they didn't even consider me, and it was
10 well over ten years then. And it's
11 20-something years later and I'm still
12 getting the same results.

13 I have qualifications to be a
14 nurse. I'm a licensed cook. I used to
15 be a personal trainer. And also, you
16 know, I went through another program for
17 building maintenance, construction. I
18 say that to say that after seven years go
19 by and you realize that you're not the
20 same person that you was seven years
21 before that, you realize that if you want
22 to make a difference, you will make a
23 difference.

24 And I just want to thank
25 everyone once again for allowing me to

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2 speak.

3 COUNCILMAN JONES: Thank you,
4 guys, for your testimony.

5 Are there any others to
6 testify?

7 (No response.)

8 COUNCILMAN JONES: Are there
9 other questions of this panel?

10 (No response.)

11 COUNCILMAN JONES: Seeing none,
12 this concludes our public hearing, and we
13 will now begin our public meeting, and
14 the Chair looks for a motion from
15 Councilman Henon.

16 COUNCILMAN HENON: Thank you,
17 Mr. Chairman. I make a motion an
18 amendment to Bill No. 150815 be adopted.

19 (Duly seconded.)

20 COUNCILMAN JONES: It has been
21 properly moved and seconded that the
22 amendment to Bill No. 150815 be adopted.

23 All those in favor will signify
24 by saying aye.

25 (Aye.)

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2 COUNCILMAN JONES: All those
3 opposed?

4 (No response.)

5 COUNCILMAN JONES: Seeing none,
6 the motion carries and the amendment to
7 Bill No. 150815 has been adopted.

8 I now call upon again
9 Councilman Henon for a motion on Bill No.
10 150815, as amended.

11 COUNCILMAN HENON: Thank you,
12 Mr. Chairman. I move that Bill No.
13 150815, as amended, be reported out of
14 Committee with a favorable recommendation
15 and with a rules suspension to be
16 permitted to be read at our next Council
17 session.

18 (Duly seconded.)

19 COUNCILMAN JONES: It has been
20 moved and properly seconded that Bill No.
21 150815, as amended, be reported from this
22 Committee with a favorable recommendation
23 and further moved that the rules of
24 Council be suspended to permit first
25 reading of this bill at our next session

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2 of Council.

3 All those in favor will say
4 aye.

5 (Aye.)

6 COUNCILMAN JONES: Those
7 opposed?

8 (No response.)

9 COUNCILMAN JONES: It passes.
10 The motion carries. Bill No. 150815, as
11 amended, will be reported from this
12 Committee with a favorable recommendation
13 and that the rules of Council will be
14 suspended to permit first reading at our
15 next session of Council.

16 This concludes our public
17 meeting. Thank you very much.

18 (Committee on Public Safety
19 concluded at 5:10 p.m.)

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CERTIFICATE

I HEREBY CERTIFY that the
proceedings, evidence and objections are
contained fully and accurately in the
stenographic notes taken by me upon the
foregoing matter, and that this is a true and
correct transcript of same.

MICHELE L. MURPHY
RPR-Notary Public

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